IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 22449 of 2004

Between:

1 Karri Govindu S/o.Chinnayya
Kattubolu, Rambilli (M),
Narsipatnam, Visakhapatnam.
2 Karri Seetharam S/o.late Thammunaidu
Kattubolu, Rambilli (M),
Narsipatnam, Visakhapatnam.

..... PETITIONERS

AND

1 The Sub-Divisional Magistrate
Kattubolu Village, Rambilli (M),
Visakhapatnam Dist
2 Karri Ramu S/o.lae Sanyasinaidu
Kattubolu Village, Rambilli (M),
Visakhapatnam Dist
3 Karri Mahalaxminaidu S/o.lae Sanyasinaidu
Kattubolu Village, Rambilli (M),
Visakhapatnam Dist
4 Karri Rameswara Rao S/o.lae Sanyasinaidu
Kattubolu Village, Rambilli (M),
Visakhapatnam Dist

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the inaction on the part of the Respondent no.1 in considering he complaint of petitioners Dt.6-5-2002 for issuance of prohibitory orders against the respondents 2 to 4 is highly arbitrary, unjust and is contrary

to Section 145(1) of Cr.P.C. and also violation of principles of natural justice, equity and fair play and consequentially to direct the respondent no.1 to initiate proceedings and issue necessary prohibitory orders to avoid breach of peace and the high handed actions of respondents 2 to 4 and to pass such other order .

Counsel for the Petitioner:MRP.RAJASEKHAR

Counsel for the Respondents: GP FOR HOME

The Court at the stage of admission made the following ORDER:

Petitioners claim to have submitted a complaint before the first respondent against respondents 2 to 4 alleging that the latter are interfering with their possession and that it is necessary to issue prohibitory orders. They allege that the first respondent has not taken any steps so far, and seek appropriate directions in this regard.

Heard learned counsel for the petitioners and learned Government Pleader for Home.

The writ petition was listed for admission initially on 06.12.2004. The learned Government Pleader for Home took time to obtain instructions. Today, it is stated by her, on instructions, that acting on the complaint of the petitioners, dated 06.05.2002, the first respondent summoned both the parties and an undertaking was recorded from them on 17.05.2002 to the effect that they shall not create any law and order problem at the site.

The purport of the proceedings under Section 145 Cr.P.C. is very limited. The executive Magistrate cannot decide the question of title. He can only take such steps, as are required, to ensure that no breach of law and order takes place in relation to any property. Such a step has already been taken by the first respondent and he has, in fact, recorded the statements of both the parties on 17.05.2002. If there is any violation by any of the parties even thereafter, the only course open to them is to approach the competent Court of civil jurisdiction and obtain appropriate orders.

In that view of the matter, the writ petition is disposed of, leaving it open to the petitioners to work out their remedies in a Civil Court. No order as to costs.

13.12.2004

ksld

To

1 The Sub-Divisional Magistrate

Kattubolu Village, Rambilli (M),
Visakhapatnam Dist

2 Two CCs. to the Government Pleader for Home, High Court of A.P.,

Hyderabad (OUT).

3 Two CD copies.